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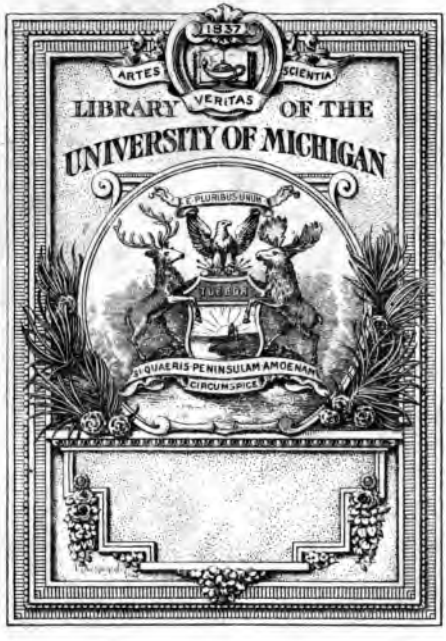
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BY

EDWARD HAMILTON.

BOSTON:
LEE AND SHEPARD, PUBLISHERS.
NEW YORK: CHARLES T. DILLINGHAM.
1880.

NOTICE.

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THE SITUATION OF THIS COUNTRY IS ALARMING ENOUGH TO ROUSE THE ATTENTION OF EVERY MAN, WHO PRETENDS TO A CONCERN FOR THE PUBLIC WELFARE.

APPEARANCES JUSTIFY SUSPICION; AND WHEN THE SAFETY OF A STATE IS AT STAKE, SUSPICION IS A JUST GROUND OF INQUIRY. LET US ENTER INTO IT WITH CANDOR AND DECENCY.

JUNIUS.

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PREFACE.

A CONCISE statement of the fundamental principles, relative to the powers and limitations of our several systems of State and Federal Government, seems timely at the present time, and was first suggested to my mind by the following debate in the Federal House of Representatives on the 13th March, 1876: —

A CENTRALIZATION RESOLUTION.

Mr. Baker, of Indiana, offered the following resolution:

Resolved, That the people of the United States constitute one nation, and not a mere confederacy of States and nations; that the Constitution was formed by the people acting in their primary and individual capacity through their delegates thereto duly constituted; that the Government, under the Constitution, is of the people and for the people, and that in its appropriate sphere the Government of this nation is sovereign and supreme; that in its nature it is permanent and indissoluble, except by the action and consent of the whole people; that no State has any right or authority to judge of the Constitutionality of the laws enacted by Congress, or to nullify the execution of the same; and that all overt acts by any State or people thereof, or secession therefrom, or of rebellion against the same, constitute treason; and that the late war of the rebellion, for the dismemberment of the Union, was causeless and indefensible on any theory of right or of Constitutional law.

He moved that the rules be suspended, and the resolution adopted, and called for the yeas and nays, which were ordered.

Mr. Stone, of Missouri, moved to adjourn. Rejected.

Mr. Cox, of New York, asked whether the resolution was divisible.

The Speaker responded that the motion to suspend the rules and adopt the resolution was not divisible.

Mr. Cox asked whether it was in order to read from the Constitution these words, "Done in Convention by the unanimous consent of the States. George Washington."

The Speaker replied that it would be in the nature of debate, and not in order.

The motion to suspend the rules and adopt the resolution was rejected — yeas 91, nays 75 — two thirds not having voted in the affirmative. Very few Democrats voted for it. Among them were Durand, of Michigan; Hardenbergh, of New Jersey; Jenks, of Pennsylvania; New, of Indiana; Phelps, of Connecticut; Potter, of Michigan; Vance, of Ohio, and A. S. Williams, of Michigan. All the Republicans voted for it, all the Southern Democrats against it, and most of the Northern Democrats refrained from voting.

Before the vote was announced, Mr. Baker called the attention of the Chair to the fact that many members were present who were not voting; and he made a point of order that they be compelled to vote.

The Speaker overruled the point.

Mr. Randall, of Pennsylvania, remarked that there was a good deal of truth in the resolution, and also a good deal of false principle.

The result of the vote was then announced. The following is the negative vote:

Messrs. Ashe, Atkins, Beebe, Blackburn, Bland, Blount, Boone, Bright, Brown, of Kentucky, Cabell, Caldwell, of Alabama, Caldwell, of Tennessee, Candler, Cate, Clarke, of Kentucky, Cook, Cowan, Culberson, DeBolt, Dibrell, Douglas, Ellis, Faulkner, Felton, Forney, Franklin, Glover, Goode, Gunter, Hancock, Hartridge, Harris, of Georgia, Hewitt, of Alabama, Hill, Hooker, House, Hunton, Hurd, Jones, of Kentucky, Knott, Levy, Lewis, Lord, Meade, Milliken, Mutchler, Odell, Parsons, Payne, Phillips, of Missouri, Piper, Rea, Reagan, Rice, Riddle, Robbins, of North Carolina, Robbins, of Pennsylvania, Ross, Scales, Sheakley, Singleton, Smith, of Georgia, Stone, Terry, Throckmorton, Tucker, Vance, of North Carolina, Waddell, Walser, of New York, Ward, Williams of Alabama, Williams of Indiana, Williss, Yeates, and Young. — 75.

RESOLUTIONS BY MR. COX.

Mr. Cox then offered the following resolutions:

Resolved, That the people of the United States constitute a nation in the sense, to the extent, and for the purposes defined in the Federal Constitution.

Resolved, That the Government of the United States is a Federal Union, and was formed by the people of the several States in their sovereign capacity; that the rights and powers of the United States Government are defined and limited by the Federal Constitution, and these rights and powers cannot be enlarged or diminished except by an amendment to the Constitution.

Resolved, That the rights of States have the same sanction of security in the Constitution as the rights and powers of the Federal Government; and that local domestic government by the several States, within the limits of the Constitution, is absolutely necessary for the preservation of the liberties of the citizen and the continuance of a republican system of government.

Resolved, That the doctrine that any State has the right to secede from the Union is in conflict with the idea of a perpetual Union as contemplated by the Constitution, and should be regarded as being forever extinguished by the result of the recent civil conflict.

Mr. Holman, of Indiana, called for the yeas and nays, and they were ordered.

Mr. Blaine, of Maine, expressed a hope that every Union man in the House would vote against the resolutions.

The motion to suspend the rules and adopt the resolutions was adopted — yeas 150, nays 42.

All the Democrats and a few Republicans voted for the resolutions. Among the Republicans voting yea, were Messrs. Kelley, Leavenworth, McDill, Phillips, of Kansas, Platt, Townsend, of Pennsylvania, Willard, W. B. Williams, of Michigan, and Wilson, of Iowa. The rest of the Republicans voted no.

It will be observed, that notwithstanding the crack of the radical whip by ex-Speaker Blaine, that out of one hundred and ninety-two members present and voting thereon, but forty-two voted against the resolutions of Hon. Mr. Cox of New York.

This fact is alluded to for the purpose of proving that a majority of the Republican party still adhere to

the theory upon which our forefathers established our governmental systems, and that but a minority of active and ambitious men would overthrow them.

In the brief statement presented it has been my purpose to give in a condensed form : First, the action of the Fathers both in the establishing a confederacy, and also in providing for "a more perfect union of the States." Second, the definition of words as expounded by Noah Webster. Third, authoritative quotations to show the views not only of the framers of our federal system of government, but the views of those who founded the republican party, and the position it took as to this question of the rights of the States in its early organization, upon which position it achieved success in the North, and the acquisition of political power in the Federal government.

Parts II. and III. are discussions of these principles in brief, the whole presenting what appears to me to be a candid and just statement of the question discussed and adopted by the House of Representatives on the occasion referred to.

The difficulty has been to condense and pass over a mass of additional testimony confirmatory of the views advanced, as it always is easier to elaborate than to condense where the testimony is voluminous.

Trusting these pages may aid in maintaining our local domestic rights and powers, and make clear to some the relations between the States and their Federal Government, as well as to warn the people themselves to guard jealously their own reserved powers as freemen, they are respectfully submitted.

EDWARD HAMILTON.

JAMAICA PLAIN, BOSTON, MASS., February, 1880.

It is rather remarkable that any body of men in any party in the States of our Union, can be found at this late day, advocating the doctrine that the Federal Government can of right interfere in the management of the local affairs of the people of the States.

Surely no agent is greater than his principal, no representative can have or rightfully exercise powers other than those delegated to him in the instrument creating him, and which he is bound to support and maintain unimpaired by the oath he has taken to do so, and by the fact that his sole authority consists in that derived from the Constitution. Therefore all attempts to adopt legislation outside constitutional limits, to assume powers which belong exclusively either to the people or to the States, is usurpation.

Before quoting authoritative opinions upon this question, let us first examine the proceedings of the bodies which created our federal system of government, and see what was understood by them to be the relation between the Federal and the State governments.

The Confederation.

During the time the Declaration of Independence was under consideration, Congress took the necessary measures for the formation of a constitutional plan of union. A committee to form a plan was appointed on the 12th of June, 1776, and the plan proposed by this

committee was discussed from time to time until the 15th of November, 1777, when it was agreed to.

The Declaration of Independence having declared the Colonies free, sovereign, and independent States, it will hardly be denied they were so up to the adoption by them of the articles of confederation.

Congress, which was composed of delegates from the States, did not claim the power to form a confederacy; the only validity their plan could claim was through its acceptance by each of the States, and it was not until the 26th of June, 1778, that the form of ratification even was agreed to; and on the 9th of July, 1778, it was engrossed and signed by the delegates of New Hampshire, Massachusetts, Rhode Island, New York, Pennsylvania, Virginia, and South Carolina, agreeably to the powers vested in them by their States; but it was not fully adopted by all the States until the 30th of January, 1781, Maryland being the last to adopt it.

The Convention to frame the Constitution for the United States.

This Convention of 1787 was composed of deputies chosen by the legislatures, or appointed by the governors by authority conferred on them to do so by the legislatures of the several States. Mr. Madison's minutes record that, "on the question to agree to the Constitution as amended [meaning 'as amended' on its passage through the Convention, not as finally amended by the States], it passed in the affirmative — ALL THE STATES CONCURRING."

When Congress received the report of the Conven-

tion, it passed a resolution transmitting it to the several legislatures, in order to submit it to conventions in each State. And General Washington, president of the Constitutional Convention, in his letter to Congress, accompanying the draft of the Constitution, September 17, 1787, said: "That it will meet the full and entire approbation of every State is not perhaps to be expected; but each will doubtless consider that, had her interest alone been consulted, the consequences would have been particularly disagreeable or injurious to others."

Thus it will be seen no one thought of submitting this new Constitution to the body of the people to be voted upon as the people of a nation, collectively; but this is made the more manifest when we refer to the times

WHEN IT WAS RATIFIED BY EACH STATE.

1. Delaware, December 7, 1787.
2. Pennsylvania, December 12, 1787.
3. New Jersey, December 18, 1787.
4. Georgia, January 2, 1788.
5. Connecticut, January 9, 1788.
6. Massachusetts, February 7, 1788, with nine amendments.
7. Maryland, April 28, 1788.
8. South Carolina, May 23, 1788, with amendments proposed.
9. New Hampshire, June 21, 1788, with twelve amendments.
10. Virginia, June 26, 1788.
11. New York, July 26, 1788, with propositions for

thirty-three amendments, and with reservations until amendments were made.

12. North Carolina, November 21, 1788.

The Journal of Congress records the proceedings of these States as follows: "The above are the proceedings of the conventions of the twelve States which had been represented in the General Convention."

13. Rhode Island, May 29, 1790, with reservations, and twenty-one proposed amendments.

At the first session of the first Congress under the new Constitution, the same principles were followed in the submission of twelve amendments proposed to the States, and they recognized their power to accept or reject them. Thus, New Hampshire agreed to all but the second. New York to all but the second. Pennsylvania to all but the first and second Delaware to all but the first. New Jersey to all but the second. Maryland, South Carolina, North Carolina, Rhode Island, and Virginia to all. Massachusetts, Connecticut, Georgia, and Kentucky *made no return.*

Two of the amendments proposed by the State of New York were as follows:

"That no judge of the Supreme Court of the United States shall hold any other office under the United States, *or any of them.*"

"That Senators and Representatives of the United States shall be bound by oath not to infringe or violate the Constitution or rights of the respective States."

A FEDERAL UNION, NOT A NATION.

AN analysis of the theory adopted as the first plank in the Republican Platform of 1876, as follows:

"*First. The United States of America is a Nation, not a league, by the combined workings of the National and State governments.*"

Before discussing this question, which was long ago settled by our forefathers, by the adoption of a Federal Constitution, let us refer to a definition of the words *Federal*, *Unionist*, *Nation*, and *League*. According to Webster they are as follows: —

FEDERAL. "Specifically composed of states or districts which retain only a subordinate and limited sovereignty, as the *Union* of the United States, or the *Sonderbund* of Switzerland."

NOAH WEBSTER.

UNIONIST. "One who advocates or promotes union; especially a loyal supporter of a federal union, as that of the United States."

NOAH WEBSTER.

NATION. "The body of inhabitants of a country united under the same government; a people as distinguished from those of different descent, language, or institutions; race; stock."

NOAH WEBSTER.

LEAGUE. "An alliance or confederacy between provinces or states for their mutual aid or defense; a national contract or compact."

NOAH WEBSTER.

PART I.

THE Colonies by circumstances were forced to sympathize with each other. They had a common enemy in the Indian. They stood shoulder to shoulder in war. When the Revolution came, they acted on the same principle for general defence; they met as colonies, each independent. They denied they were subject to Parliament, as their charters were direct from the king.

The title of the Declaration of Independence was, "A Declaration by the Representatives of the United States of America in Congress assembled." And that immortal instrument solemnly publishes and declares "That the United Colonies are, and of right ought to be, FREE and INDEPENDENT STATES."

They called a Congress, or convention, and delegated certain powers to a general government for certain purposes. The Constitution of 1789 was accepted by the Convention, and submitted to the several States for approval.

Luther Martin, of Maryland, said: "When the States threw off their allegiance to Great Britain, they became independent of her and each other. They united and confederated for mutual defence, and this was done on principles of perfect reciprocity."

At the conclusion of the war, Great Britain did not make a treaty with the people of the United States, but with the Thirteen Colonies; and if we refer to that treaty, we find they acknowledged these Thirteen Colonies to be "free, sovereign, and independent

States." The treaty thus created on the maps of the world thirteen free, sovereign, and independent States.

When it was decided to unite for "the common defence and general welfare in a more perfect union," what was proposed? Dr. Johnson, of Connecticut, in the Convention of 1787, said, "States are political societies. For whom are we to form a government? For the people of America, or for those societies? Undoubtedly for the latter." Even Alexander Hamilton, in the *Federalist*, declares that "the provisions of the Constitution are the compacts which are to embrace thirteen *distinct States*, in a common bond of amity and union." And the *title* to the Constitution, unanimously adopted by the Convention, was not a "national government," but "THE FEDERAL GOVERNMENT OF THESE STATES."

Judge Ellsworth, of Connecticut, in the Convention of 1787, moved "to expunge the word 'national' in the first resolve, and to place in the room of it, 'government of the United States;' which was agreed to."

Roger Sherman, of Connecticut, in the Convention, said: "Foreign States have made treaties with us as confederate States, not as a national government."

Even Mr. Morris believed that "The Constitution was a compact, not between individuals, but between political societies; the people, not of America, but of the United States, each enjoying sovereign power, and, of course, equal rights."

Rufus King, one of the most strenuous advocates of a strong national government, moved to add, "between the States so ratifying the same." The declaration of the Constitution says, "Done in convention by the

unanimous *consent* of the *States* present," &c.; and the Act of Congress recommending the Constitution says, "Agreed to by Congress, and *confirmed* by the *States*."

Nor was it submitted to the people of the United States, but carefully considered in convention by state conventions, sitting at different periods of time, and without concert of action, except in the result to be obtained. These state conventions sat, in their several sovereign capacities, not to part with their sovereignty and transfer it over to a national government, but, on the contrary, to adopt, reject, or amend the instrument submitted to them; and the States, in their state conventions, added amendments to it as conditions to its adoption; one of which amendments, to wit, the 10th, specially reserves all powers not specially granted.

And all the States so ratifying always exerted, and still exert, sovereign powers. They seize, imprison, try, condemn, and execute citizens of the United States when infringing the state laws; thus, through legislative, judicial, and executive exercise of state sovereignty, they maintain their individuality. This power was not conferred by the Federal Government; it was an original and the highest act of sovereignty, like many others exercised by the States. They not only especially amended the Constitution as submitted to them, but further, to emphatically jealously guard their sovereignty as States, they generally adopted bills of rights, declarations, unmistakable in their directness and vigor. Thus Samuel Adams, the father of the American Revolution, speaks in no equivocal terms in the 4th Article of the Bill of Rights of Massachusetts, as follows:

"Article IV. The people of this Commonwealth have the sole and exclusive right of governing themselves, as a free, sovereign, and independent State; and do, and forever hereafter shall, exercise and enjoy every power, jurisdiction and right, which is not, or may not hereafter, be by them expressly delegated to the United States of America, in Congress assembled."

At the second inauguration of John Hancock as Governor and Samuel Adams as Lieutenant-Governor of Massachusetts in 1790, Mr. Adams, when about to take the customary oath to support and maintain the Constitution, said, in his speech on that occasion: "I shall presently be called upon by you, sir, as it is enjoined by the Constitution, to make a declaration upon oath, (and shall do it with cheerfulness, because the injunction accords with my own judgment and conscience,) that *the Commonwealth of Massachusetts is, and of right ought to be, a free, sovereign, and independent State.* I shall also be called upon to make another declaration, with the same solemnity, *to support the Constitution of the United States.* I see the consistency of this; for it cannot have been intended but that these Constitutions should mutually aid and support each other. It is also my humble opinion that, while the Commonwealth of Massachusetts maintains her own just authority, weight, and dignity, she will be among the firmest pillars of the Federal Union."

That each of the thirteen "free, sovereign, and independent States," acknowledged as such by the Treaty of Peace with Great Britain, had both the power and the right to decline to ratify the Constitution sub-

mitted to them had their state conventions so decided, no one will deny; it is equally evident from the text of the Federal Constitution, that it only conveys to the general government powers specially granted, and by the Article 10th amendment it explicitly sets forth its character; which reservation is confirmed by the declarations of rights which in most of the States form a part of their State Constitutions. But the fact that the States at that time and since that day have always exercised the highest sovereign powers is undisputed. They do more than that, for they as States form one of the most important portions of the government of the Federal Union.

Chief Justice Parker, who was president of the Massachusetts Constitutional Convention of 1820, said: "The Senate of the United States is chosen in a different manner from the House of Representatives. It is chosen by the legislatures of the States representing the sovereignty of the States."

Mr. Justice Joseph Story, in a speech in that convention, said: "I take it that the Senate of the United States is a representation of sovereignties, co-ordinate and co-equal, and in no respect like our system, either of the House or Senate; for neither towns nor districts have an equal representation there, for the reason that they are not independent sovereignties."

James Madison, who justly has been styled "the Father of the Constitution," in the *Federalist*, says: "Each State in ratifying the Constitution, is considered as a sovereign body, independent of all others, and only bound by its own voluntary acts. In this relation, then, the new Constitution will, if established, be

a *Federal* and not a *National* Constitution." And, again, in the Virginia Resolutions of 1798–9, he says: "This assembly doth explicitly and peremptorily declare, that it views the powers of the Federal government as resulting from the compact to which the States were parties." And in his celebrated letter to Mr. Everett, so late as 1830, he emphatically pronounces it "a compact to which the States are the parties." This is the only view of the parties to the Constitution maintained by Mr. Madison. They are reiterated in the *Federalist* and in the Virginia Convention of 1788, as well as in the above quotations. But a volume of quotations from all the distinguished men of our country down to 1860, in support of this view, might be quoted, except those who believed in the consolidation of all the powers of government into the Federal government, changing it from the intention of its founders into the British form.

Alexander Hamilton, on the 13th of August, 1791, in a conversation with Thomas Jefferson, said: "I own it is my opinion, though I do not publish it in Dan or Beersheba, that the present government is not that which will answer the ends of society by giving stability and protection to its rights, and that it will probably be found to be expedient to go to the British form. However, since we have undertaken the experiment, I am for giving it a fair course, whatever my expectations may be." Thus admitting that the opposite from his views had been adopted as our theory of government.

Dr. Johnson, of Connecticut, in the Convention,

alluding to Mr. Hamilton's plan, said: "A gentleman from New York, with boldness and decision, proposed a system totally different; and though he has been praised by everybody, he has been supported by none."

Mr. Hamilton's plan was, that Congress should have power to pass all laws they shall judge necessary to the common defence and general welfare of the Union.

Mr. Jefferson's plan was, "the support of the state governments in all their rights, as the most competent administrations for our domestic concerns, and the surest bulwark against anti-republican tendencies." And he pronounced the 10th article of the amendments to the constitution "*its corner-stone.*"

Ex-President Van Buren, in his History of Political Parties in the United States, says: "I doubt whether, in the history of the world, another occasion can be found, where any two men were so successful as were Jefferson and Hamilton in impressing such great numbers of intelligent people with their own opinions and views upon the subjects of government, and its proper administration."

The fact is indisputable that the opposite theories of these two distinguished men have been at the foundation of all the party divisions in the United States. But, after all, they are but the division between the people and believers in despotic power; for all contests for civil liberty have grown out of, on the one side, a party which believed in governing the people, and on the other a party which believed in the people governing themselves. Thus the theory of Hamilton was in a centralized, paternal, national

government, absorbing all power, and granting to the people certain privileges; while Jefferson believed in the capacity of man for self-government in his local affairs, and that only those powers should be conferred upon a Federal government which were specially granted in a written constitution. Notwithstanding the learned commentaries which have been written to prove the contrary (the last of which was published since the war, written by Hon. Timothy Farrar), the masses of the people of the United States adhere to the interpretations put upon the Constitution by its founders, and by the decisions of the Supreme Court of the United States, which are in accordance with the views of Jefferson.

It is true that during the war, acts and measures were adopted as war measures arising out of the supposed necessities of the hour, which, under the policy pursued, found no warrant in the Constitution; and during those and subsequent years after the war, especially in what are known as the reconstruction measures, legislation was proposed and adopted which none even of the dominant party in Congress for a moment believed to be within the powers vested by the Constitution. The boldest, and one of the ablest of the leaders of Congress in those years, the late Hon. Thaddeus Stevens, in a letter to Colonel Shock, in the year 1867, wrote as follows: "Some of the members of the Senate seemed to doubt their power under the Constitution which they had just repudiated, and wholly outside of which all agreed that we were acting, else our whole work of reconstruction was usurpation."

It was during these years that some of the most

ardent admirers of what Mr. Hamilton denominated "the British system," adopted and used the word "NATION," applying it in every case where, before, it was customary, and certainly more proper, to use the word "UNION." One of the most persistent in this new departure was Mr. Sumner, who must have agreed with Mr. Webster that "words are things," if he agreed with him in nothing else. Mr. Sumner was so desirous to spread this new doctrine at that time, that contrary to his custom he went upon the lecture platform in different sections of the Union to deliver his lecture entitled "Are we a Nation?" Thus, in the title of his discourse admitting it was, even in his mind, a doubtful proposition. The word "nation" has been so persistently used by the believers in the Hamiltonian theory of government, that it has not only become one of the most prominent words in the nomenclature of the Republican party, but through ignorance of its purport and effect, or forgetting that "words are things," it is constantly misused in the speeches and writings of many who claim to comprehend the divisions between the two parties, and act and claim to belong with the followers of the theories of Jefferson.

It is very amusing to find men holding the opinions once held by Mr. Sumner and the founders of the Republican party, now, while in power, repudiating the fundamental idea of their early organization. Reference to the addresses, resolutions, speeches, and writings of those men who started in public life from 1848 to 1860 will show that the very foundation cornerstone of their party and political creed was the doctrine of State rights as opposed to the encroachments of the Federal government.

Hon. R. H. Dana, the gentleman who, in Faneuil Hall, in 1865, proposed to hold the southern States "in the grasp of war for thirty years," in 1851 stood beside Hon. Robert Rantoul, Jr., a States'-rights Democrat of the strictest sect, in his defence of Thomas Sims, and argued that the question of the right of this State to protect a citizen of this State against a claim of the Federal government to his custody, should be settled and maintained by the sovereignty of Massachusetts against any claim of the Federal government involving the personal liberty of a citizen, white or black; claiming that a black man was a citizen of Massachusetts if not of the United States. Mr. Wendell Phillips, who, in 1873, upheld the governor of a state, in calling upon troops of the United States government to enter a legislative hall and drive out a legislative assembly at the point of the bayonet, in 1861 carried his States'-rights principles so far as to admit the right of secession. On the 9th November, 1861, at New Bedford, Mass., he said: "Here are a series of STATES girdling the Gulf, who think their peculiar institutions require that they should have a separate government. They have a right to decide that question without appealing to you or to me." . . . "Standing with the principles of '76 behind us, who can deny them the right?" This view was universal in the Republican as well as in the Democratic party, in its early years, not peculiar to any section, but equally the corner-stone of the party in New England as it was in New York, Ohio, and the West.

On the 25th May, 1859, a Convention was held at Cleveland, Ohio. It was styled "Convention of the

Sons of Liberty," and was presided over by the Hon. Joshua R. Giddings. On its committee on resolutions was Hon. Benjamin F. Wade, then a United States senator from Ohio. That committee reported a series of resolutions, which were adopted by the convention, one of which was the following:

"*Resolved*, That the several States comprising the United States of America are not united on the principle of unlimited submission to their General Government; but that, by compact, under the style and title of a Constitution for the United States, and of amendments thereto, they constituted a General Government for certain definite powers, reserving, each State to itself, the residuary mass of right to their own self-government; and that whensoever the General Government assumes undelegated powers, its acts are unauthoritative, void, and of no force, and being void, can derive no validity from mere judicial interpretation; that to this compact each State acceded as a State, and is an integral party; that this Government, created by this compact, was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion and not the Constitution the measure of its power; but that, as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress."

Hon. Salmon P. Chase, then governor of Ohio, and since chief justice of the United States, was present and made a speech, warmly indorsing the resolutions; and Ex-Governor William Dennison, afterward post-

master-general, wrote a letter indorsing and approving them.

Hon. Hannibal Hamlin, afterward Vice-President of the Union, in the United States Senate, in 1858, on the 9th March, in his speech on the Lecompton Constitution, said: "If Congress shall undertake, in its power, to force a constitution and a state government upon that people, when it has only a right to admit States, not to make them, they are a people only fit to be slaves; and they will only be slaves if they do not resist it to the last extremity. I put it to any senator; I ask him what would he do, standing in a community where he knew Federal bayonets were about to force upon him a government which was to deprive him of his rights? Would he not resist it to the bitter end, and to the last extremity? If he would not, the blood of the Anglo-Saxon race does not circulate in his veins. I believe they will resist it; I believe they will do what is their duty; and if they do, I only desire to add, that the responsibility must be with those who have placed them in such an emergency."

The late Vice-President of the Union, Hon. Henry Wilson, in 1858, February 3d, began his speech on the President's Message on the Lecompton Constitution, with the words: "This application, Mr. President, for the admission of Kansas into this sisterhood of free commonwealths." And on the next day he said: "Why, sir, it has been *the policy* in all *the States* to ascertain the popular will by submitting Constitutions to the people *to ascertain the popular will.*"

The platform of the Chicago Republican Convention which nominated Mr. Lincoln in 1860, section 2d,

Resolved, "That the Federal Constitution, the rights of the States, and the union of the States must and shall be preserved;" and section 4th, *Resolved*, "That the maintenance inviolate of the rights of each State to order and control its own domestic institutions, according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political faith depend." But these extracts from the highest authority in the Republican party might be indefinitely extended.

General B. F. Butler, in the Massachusetts Constitutional Convention of 1853, on the 31st of May, said:

> "The time had come in 1820 when it was not necessary for any man to swear that the Commonwealth of Massachusetts is, and of right ought to be, free, a sovereign and independent State. The time when such an oath was requisite was passed by. Nobody thought there was any necessity to swear any such thing. It was an opinion which swearing would not strengthen, would not make more fervent in its action, would not more firmly settle."

The upholders of, and believers in, the doctrine that our Federal government consolidates within itself all power, and that the enactments of Congress, whether within the vested powers of the Constitution or otherwise, are equally authoritative with the Constitution itself, are based upon the theory that the preamble to the Constitution conveys this general power of legislation, and that the Constitution was ordained and established by the people *en masse*, collectively, and not by the intervention of independent sovereignties, to wit, the States. A familiar phrase is used, not found in the preamble, viz.: "We, the people." Wh

in the preamble the phrase is, "WE,—*the people of the United States.*" The word "united" is used simply to express the idea of union; the phrase is the same as if the words were, "We,—the people of the States, united," as is made more evident if we look to see what is proposed to be done. What did they do? The words are, "Do ordain and establish this *Constitution* FOR *the United States of America.*" Its first object declares it ordained and established "TO FORM A MORE PERFECT UNION." A more perfect union of what, if not of independent States? The State of New York, in its proposed amendment to the Constitution before quoted, spoke of "the United States, OR ANY OF THEM."

By reference to the debates on the adoption of the Constitution, it will be seen that this preamble was submitted by the "Committee on Style," a committee similar to our legislative committees on "bills in a third reading," who revise bills simply to perfect their language and grammatical expression, but have no power to so alter any bill as to affect intended legislation, and they cannot even change a grammatical expression in any bill without submitting their work to the legislative body for its concurrence.

Again, if the interpretation sought to be put upon the powers of the Federal government was accepted, how absurd would many of the provisions of the Constitution appear; for instance, the tenth amendment says, "The powers not delegated to the United States by the Constitution, nor prohibited by it, to the States, are reserved to the States, or to the people."

If, as is claimed, all power was delegated, what is

meant by "the powers not delegated" in this amendment?

If the States are not sovereignties, free and independent, how could they reserve powers? Or if they were not parties to the creation and adoption of the Constitution, who could take from them the powers they of right possessed, or what power was there to say what they should reserve? And the very fact of their proposing and insisting upon this reservation in this amendment to the Federal Constitution, and its reiteration in the bills of rights in their State constitutions, shows clearly that if they did not reserve all power under the confederation, they did under the Constitution of 1789.

The fact is, the people of these United States have various SYSTEMS of government: First, the town, county, or district *systems;* second, the State *systems;* and third, for specific purposes, a Federal *system.*

The Declaration of Independence speaks of the "necessity which constrains them to alter their former *systems* of government;" and Washington, in his farewell address, speaks of "the basis of our political *systems.*" It has been well said that "the people are the authors, not the incidents of government;" and Jefferson's statement in the Declaration of Independence, that "governments are instituted among men, deriving their just powers from the consent of the governed," must mean, if it means anything, "from the consent of" the majority governed. From the source of power, the people, local governments were established; and after the Revolution and the establishment of the independence of the Colonies, and

their recognition as free, sovereign, and independent States, the people delegated certain powers to the State governments in written constitutions, and, to form a more perfect union, the States parted with certain of their powers to a Federal government, and vested them in three departments of that government. All executive powers parted with were vested in the executive. All legislative powers parted with were vested in the legislature or Congress; and all judicial powers parted with were vested in the judiciary created under the provisions of the Constitution for the United States.

Hon. Otis P. Lord, now one of the associate justices of the supreme court of Massachusetts, in the Constitutional Convention of this State in 1853, on the 7th of June of that year, said:

"Now, sir, it will not be useless, I think, for us to recur a moment to the principles which should guide us in making or in revising a constitution of government. What should it be, sir? A system of policy which the party temporarily in the majority have thought proper to pursue for the time being? Is that the idea which gentlemen have of a constitution? Sir, in my judgment, a constitution is rather imposed as a restraint than as a development of policy. The constitution should have for its first great purpose a declaration of popular rights, of individual rights, the rights of the individual; and it should contain also the restrictions which we feel should be imposed upon the sovereignty wherever that sovereignty may be vested. It should contain also an organization or frame of government, and, beyond that, but little else, in my judgment. The individual needs protection from the sovereignty, no matter where that sovereignty resides. Without protection against that sovereignty, does it matter to me whether that sovereignty is a single arm or a thousand?

"I think I cannot be misunderstood in relation to this. I mean

that sovereignty which has the actual exercise of governmental authority; and who care what that sovereignty is if there is no restraint upon it. I do not believe in the doctrine at all that the people cannot do wrong. Why, sir, if everything the people do is right, how fluctuating is right! If they did right last year, they did wrong the year before; or else right changes, because they change their action. What the people deem right to do to-day, they do not deem right to do to-morrow. They think they must undo what was done before, because it was not rightly done. Now, sir, if I cannot have my rights protected against the power which controls and manages the affairs of the State, then I care not what that power is, and it is wholly immaterial."

This great danger to our systems of government cannot be too jealously guarded. All arbitrary encroachments on *the rights of either of the departments* of the Federal or State governments by the other departments, or upon the reserved or delegated rights of either, or encroachments upon *the reserved rights and liberties of the people*, are usurpations equally dangerous to both parties.

Washington, in his farewell address, says:

"The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus create, whatever the form of government, a real despotism. . . . . It is the customary weapon by which free governments are destroyed."

In other words, Hon. John A. McClernard, of Illinois, president of the St. Louis Democratic Convention of 1876, repeats the warning of Washington. Mr. McClernard said:

"There are no enemies of the Union to-day, on this continent, except that administrative centralism which is congesting at the capital the vital currents which ought to flow out through every part, giving life to the farthest extremities of the body politic, and energy to all its members; except that corruption which is the curse

that centralism has never failed, in any age or land, to entail upon any government."

It should be borne in mind always, in considering this question, that the last words of the Constitution are, "Done in Convention, by the unanimous consent *of the States.* GEORGE WASHINGTON;" and also that, both in the election of the President of the Federal Union by an electoral college or by the House of Representatives, he is chosen by one vote OF EACH STATE, and not simply by the people in their primary capacity; thus, in establishing a constitution and in electing the chief officer under it, the States are recognized individual sovereignties.

Hon. Henry Clay well said:

"Our Government is not to be maintained, or our Union preserved, by invasions of the rights and powers of the several States. In thus attempting to make our General Government strong, we make it weak. Its true strength consists in leaving individuals and States as much as possible to themselves; in making itself felt, not in its power, but in its beneficence; not in its control, but in its protection; *not in binding the States more closely to the centre,* but leaving each to move more unobstructed in its proper orbit."

Finally, in conclusion, we answer to the first resolution of the Republican National Convention of 1876: No! we are not a nation, but a Federal Union of free, sovereign, and independent States. And in the words which close the Centennial Fourth of July Oration of Hon. Robert C. Winthrop, at Boston, we will close: "GOD SAVE THESE AMERICAN STATES!"

PART II.

SINCE 1876, the believers in the theories of Alexander Hamilton everywhere, in their political conventions, in their speeches, and through the columns of their newspapers and magazines, have endeavored to instil into the minds of their followers the idea advocated by Hamilton that the Federal system must yield to a stronger centralism, and our republican government must give way to one similar to the British form.

The following extract from an article in the *Atlantic Monthly* for February, 1880, entitled "The Strong Government Idea," illustrates, in a measure, the designs of the advocates of centralism. It says:

"An early result from the development of the national idea, we may expect, will be the exercise by the General Government of still greater control over elections which are national in their character, and the recognition of its duty and power to protect the rights of citizenship and of parties. I think we may next look for a change in the manner of electing the President and Vice-President. The present method is clumsy and antiquated, and is based on two notions now wholly discarded: one, that the people are not to be trusted to vote directly for their chief magistrate; and the other, that the States, rather than the people, constitute the national government."

The people of the States created the Federal government, and fixed in its Constitution the "notions" which have never as yet been "discarded;" one of which is that they are not "trusted" by anybody, but

that, in their sovereign capacity, they establish governments, and make constitutions, and in doing it they act, each independently, through their own "political societies," the States. Therefore there are no "national" elections.

Some of our public men argue that while the Jefferson and Samuel Adams systems did apply to the old States, from whom the Federal system derived its existence, that now the Union embraces thirty-eight States, twenty-five of which, they say, *were created by the Federal government*, from virgin soil owned by the Federal government, and therefore the relation of these States to the Federal government is a different one than that of the old thirteen which were declared by Great Britain and acknowledged by the rest of the world to be "free, sovereign, and independent."

This argument is based on the old doctrine that all power emanates from the king—the British doctrine; and these men forget the primary principles of the Declaration of Independence, which declares that "Governments are instituted among men, deriving their just powers from the consent of the governed." They forget that "the people *are the* AUTHORS, not the incidents, of government." And in the words of Vice-President Hamlin, "Congress has only a right to admit States, *not to make them.*"

The Constitution for the United States expressly provides, that "the citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States." Therefore, whatever of these were enjoyed, retained, or exercised by the old thirteen

States of right belong to citizens of all the new States since formed, and admitted to fellowship, as free, sovereign, and independent, under the flag of the Union, and each of these twenty-five stars added to it, demand, and will maintain, they shall have all the powers, jurisdiction, and rights reserved to the old thirteen original States and their people. Less than this will not satisfy them.

The power to create a State would imply the power to dictate its constitution; and none but slaves would submit to such an act on the part of the Federal government, even at the point of the bayonet.

Another assumption is, that while the Senate of the United States is composed of two representatives of, or ambassadors from the States, representing the sovereignty of the States in Congress, that the Representatives, the House of Representatives, represents the people of the United States; that is, the sovereignty of the Federal government, and that, therefore, the Federal government has a right, and is in duty bound to take part in the election of these representatives, to supervise the polling districts, to count the ballots, and that the decision of its supervising officers should decide as to who are and who are not elected to that branch of the Congress of the United States.

Such a construction is opposed to the whole theory of our systems of government. Were it a true interpretation of Federal power, why not go one step further, (and, if admitted, that step would soon be taken,) and let the Federal officers name the men for whom the people shall vote; or, why have the people

vote at all? Napoleon III. thus established his republican government, and the advocates of centralism are working toward the same policy.

It should be remembered that the States, through their legislatures, mark out within their own limits their congressional districts, and that the representatives elected are selected and chosen to be the representatives of the people of the district from which they are chosen, and the State from which they are chosen, to see to and protect the constituencies they represent. They are the representatives of the people of their section, representing their views, sentiments, interests, opinions, wishes, and political principles; from all the districts in each State they represent the aggregate sentiment of the people of each Commonwealth; and all together, in Congress assembled, the people of the whole Union. As a body they are as sovereign in their powers as is the Senate, the Executive, or the Judiciary, for they are all bound by the limitations of the Constitution, and by that instrument through which they exist, they, and they alone, are the judges of the qualification and election of their own members.

If we are a nation, why should not the Federal government fix the representative districts? Why confine them to state limits? Massachusetts is surrounded by other States north, west, and south; why not run these district lines outside the State limits into New Hampshire, Vermont, New York, Connecticut, and Rhode Island? In rising to speak in Congress, the delegate then would not be addressed by the speaker as "the gentleman from Massachusetts," but as "the

gentleman from the one hundred and tenth district of the nation." Neither Massachusetts, nor any State would then have a representative in Congress; they would be the representatives of "the Nation." The absurdity of the scheme becomes apparent by a simple statement of the proposition.

We have no such system; the argument that we have is unsupported by a scintilla of proof. To place Federal officers, whether civil or military, at the polls, to in any manner interfere with, or to supervise the free and untrammelled choice of the people, is an impertinent usurpation, and one which, if continued, none will regret more than the party which inaugurated and advocates it; for the temptation to retain it may be too strong for the virtue of the opposite party, soon to resume power in the Federal government. It is to be hoped, however, such will not be the case, but that one of its first acts will be to wipe from the statutes all such destructive legislation, to the end that the people may be sovereign, free, and untrammelled in their elections. As Henry Clay said, "our government is not to be maintained, or our Union preserved, by invasions of the rights and powers of the several States."

The late Hon. Robert Rantoul, Jr., one of the most gifted of the public men of Massachusetts, said: *

"Liberty is the object for which governments are founded, and that government is best administered, where the spirit of liberty is best preserved. If, then, this be the great object of the Union and the Constitution, and that which makes the Union and the Constitution dear, how is the government to be administered? how is the Constitution to be interpreted? There have been two great schools of politics in this country since the foundation of our government.

* "*Memoirs, Speeches, and Writings*," p. 733.

To one of these schools I have always belonged. I think the maxims of that school essential to the durability of our institutions. It is not the expediency of party policy which seems to me to be involved. Two great fundamental principles, as to how the Constitution is to be interpreted, are involved. It is a question on which parties are now divided, and on which they always will divide till the end of time.

"Let us look at that question. The Constitution of the United States creates a government of limited powers. Are they to be held strictly to the limitations of that instrument? or are they to have a system of loose construction which will transcend those powers? That is the great question at the bottom of all our party divisions for sixty years past. Now I hold and have always held, that the Constitution of the United States is an instrument which is to be strictly construed; that the Constitution is the letter of attorney by which the members of Congress are authorized to act, and that they are empowered to do nothing which it does not authorize them to do. That is my doctrine, and it is democratic doctrine. I ask of democrats some application of that doctrine. It is the doctrine on which government stands, that the Constitution of the United States is to be strictly construed. Nothing is to be established by means of unnatural inferences. Was that the doctrine of those who made the Constitution of the United States?

"The Constitution of Massachusetts says that the general court shall make all laws which are for the benefit of the people, which are not forbidden in that instrument. It says, the legislature shall not take away the trial by jury; it shall not abolish the *habeas corpus*. It forbids that which shall not be done. All else may be done by the legislature. This is the Constitution of Massachusetts.

"The Constitution of the United States, on the other hand, says, this thing you may do; that thing you may do; the other thing you may do; and there it stops. To that, the Government of the United States is to be strictly held. To prevent any misapprehension on that subject, let me say that it was well known that there was one school of politicians who considered that safety only consisted in following the example of Great Britain; who said that we must have a strong government, or we should be in the condition of the Germans, the Italians, and the Greeks, for a long series of years. And history seemed to be in their favor.

"I do not wonder at their opinions. They said: 'All these republican experiments have failed because the governments were not strong enough. You must not make the government so weak.' And perhaps our government would not have held together if they had been surrounded by strong nations at war with them. If we had had a nation in Canada, as strong as France, and one in Mexico, as strong as Great Britain, and should have been at war with them, or were constantly liable to war with them, perhaps our government would not have stood. It was not, at that time, to be expected that they would know how the thing would turn out, because it had never been written in history. They had seen no great, successful, republican government. But it is our own fault if we are not wiser by experience. I say that the school of politicians who thought the government was not strong enough, did not intend to have a strict construction.

"A gentleman once remarked to Alexander Hamilton, who was one of that school, that he thought the Constitution was a pretty good instrument. 'It depends,' replied he, 'upon how you construe it.' He was in favor of modelling our government somewhat after the English form. He thought that the minister of the treasury, and of foreign affairs, should step into our house of representatives as the premier of England enters the house of commons, and should there explain the intentions of the government and the relations of other countries to our own. Then he wanted a public debt, because Great Britain had a debt. He wanted a bank as Great Britain had a bank. And so on other points, he wanted the government as strong as it could be made. It is my opinion that he was honest in that view. There was another party who took the opposite view.

"They said, 'it is true that confederations have broken to pieces; but there have also been many governments which have progressed until they became despotisms.' They laid down the principle, that government should not go one hair's breadth beyond the powers given them. When the Constitution came up for adoption, many States refused to adopt it, unless there was strong probability that certain amendments would be adopted. One of them was thought peculiarly important. That amendment was subsequently adopted. It is the tenth article of the amendments to the Constitution of the United States:

"'The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.'

"The powers not given are reserved to the States, or to the people. When you ask whether a bill be constitutional or not, the first thing to be done is to look into the Constitution and find the express grant therefor. If it is not there, it is reserved to the States or to the people. That is the democratic doctrine.

"Now, was that Massachusetts doctrine? Most assuredly it was. Massachusetts had a good deal of democracy in her in early times. When old Samuel Adams drafted the Bill of Rights, there was a good deal of democracy in him, and a good deal in the people."

No usurpations were ever attempted or accomplished without specious reasons being brought forward as the basis of such action. We are told the strong arm of Federal power must be extended to protect citizens of the United States within the States. Well, who objects to it? No man can ask any protection, except under the provisions and authority of the Constitution of the United States. The courts of the United States exist in all the States. An aggrieved citizen who has suffered injury for which the Federal government is responsible has his remedy through the Federal courts. If a mob or insurrection arises in any town or city, in any State, too powerful for the local authorities, they can call on the governor for protection; and if too powerful for the State authorities to suppress, the legislature, if in session, or if not, the governor, may call on the Federal government for aid, and the whole power of the Union may be exerted to quell the disturbance.

A meeting was once broken up in Tremont Temple, in Boston, while John A. Andrew was governor of

Massachusetts. Those who were attacked, not satisfied with the course pursued by the mayor of Boston, appealed to Governor Andrew for protection. He replied that when the application reached him *through the proper authorities*, then he would interfere, but not before.

When the railroad riots occurred in Pennsylvania and New York, the Republican governor of Pennsylvania, although a general, a military man, immediately telegraphed from a station on the Union Pacific Railroad, where he then was, to the President of the United States to interfere, before he had attempted to do so through the power of the great and powerful State of which he was the head. The Democratic governor of New York made no call on the Federal government, but with his own troops and officers preserved order and restored tranquility.

A citizen of Vermont, in the town of Sutton, was recently taken from his house in the night time, and tarred and feathered, being badly burned by the tar, and his house attacked and greatly injured, by disguised men. Suppose he had called on the United States to protect him, how many United States officers would it require to do police duty all over the United States in such cases?

Daniel Webster wrote to John Taylor:

"Any man who hesitates in granting and securing to every part of the country its just and constitutional rights is an enemy to the whole country. . . . . Any man who attempts to excite one part of this country against another is just as wicked as he would be to get up a quarrel between John Taylor and his neighbor. . . . . Love your country and your whole country; and when men attempt to per-

suade you to get into a quarrel with the laws of other States, tell them 'that you mean to mind your own business,' and advise them to mind theirs."

The fundamental theory of our systems of government is LOCAL GOVERNMENT, self-government. The great doctrine of the right and capacity of man to govern himself was the corner-stone, rejected before in the old world, but which in the new is "the chief stone of the corner." It can no longer be rejected. It is planted deep down in the adamant of our political structure. He is no longer a subject, he is a sovereign, crowned with the regal power to govern, and this local, self-governing freeman admits the right or power of no Federal officer to interfere in his local, domestic affairs, except through the delegated powers conferred by the Constitutions of his State and of the Federal Union.

A great deal of cheap declamation is heard about protecting citizens of the United States wherever the flag of the Union floats. It is a taking phrase. Demagogues use it to tickle the imaginations of the ignorant or unthinking.

Wherever that flag floats in foreign lands, citizens of all the States claim its equal protection, whether native or naturalized. Why? Because the States in the Federal Constitution made it the duty of the Federal government to do it. At home in their own jurisdiction, in their own limits, it is the constitutional duty of the States to protect their own citizens; and it is only when they have not the power, they have provided that, upon their application, the Federal government shall aid them to do it. It is a part of

their sovereign right to protect their own citizens. Let us see about this sovereignty of the States.

The United States government wishes to lay out a navy yard or build a fort: it buys the land, and completes its navy yard and fort; but, before it becomes sovereign in them, an act has to be passed by the State legislature ceding its sovereignty to the United States government; not until then can the Federal government arrest for any crime a person committing a crime within the limits of that yard or fort. Do the Boston police force by night or day patrol the Charlestown navy yard? No; the police (called marines) of the Federal government do that duty; and if a robbery were committed there, and the perpetrator caught, he would be tried in the courts of the United States, and not in the courts of the State, because the State has no sovereignty over the property in that yard, or over any of the property ceded to the United States Government; *neither has the United States Government, outside of that yard, fort, or other property, sovereignty in the police affairs* OF THE STATES. Marines do not yet do police duty in our cities and towns, but police and State officers do it, because the sovereignty of the State empowers them to do it.

Perhaps the best illustration of this question of the exercise of this sovereign power of the protection of the citizen is found in the District of Columbia. Virginia and Maryland ceded this territory to the United States Government, and passed acts ceding the jurisdiction over it also. The Federal government created the city of Washington within its limits. The Federal government did not charter Chicago, Cincin-

nati, Detroit, or any other city or town in the States. It had not the power or jurisdiction to do it. Nor have the State governments any power to interfere within the limits of the District of Columbia.

Again, the State has a shore-line jurisdiction; outside of it, the States have granted to the Federal government admiralty jurisdiction.

Now, in both these illustrations, it will be borne in mind that the cities named, and a large portion of our shore-line on the West and South, are from territory acquired and owned by the United States; but when States were created by the people in those sections, and they were admitted to the Union, the jurisdiction, the sovereignty, passed to those States from the people who created them.

The attempt to arouse a spirit of antagonism between the State and Federal systems of government will prove a failure. There is no antagonism. EACH IN ITS ORBIT IS SOVEREIGN. *In all things delegated to it to do, the Federal Government is supreme, and in all else the State is sovereign.*

Were Massachusetts or any other State to send a special ambassador to London to protect a citizen of Massachusetts outraged by British power, the United States minister would send him home with instructions to mind his own business, and for this State to attend to hers: properly would do so, for that is the business devolving on the Federal Government; and when a Federal officer comes into a State to interfere with our local authorities, he will be marched out and told to attend to his own affairs. Even during the late war, Governor Andrew would not allow the

Federal Government to make arbitrary arrests on Massachusetts soil.

While the Federal Government is bound, on application properly made, to protect the States from armed insurrection or invasion, *so also are* THE STATES *bound to protect the* SUPREMACY OF THE FEDERAL GOVERNMENT in its sphere. Nobly have they done it. At what fearful cost in blood and treasure have they done it!

Fort Sumter, under the sovereignty of the United States — sovereignty ceded to it by the State of South Carolina — was attacked by armed men; the States were called on to aid in protecting the sovereignty of the Federal Government. To repeat the story of how they did it, would be to write history — that history yet unwritten — that history which only will be truthfully written during the next century, when passion and prejudice and partizanship shall have died out, and truth alone survive.

The supremacy of the Federal Government under the Constitution was preserved by the States, and the States surely have both the power and the will *to maintain and protect their own.*

Let it be understood that, while the views expressed of the just relations between the Federal and the State systems of government adopted by our forefathers are, and long have been, maintained by the Democratic as well as by the Republican party in its early days, that men of intelligence and patriotism in both these dominant parties still maintain these opinions, and but a portion of the Republican party are fully prepared to abandon the precepts and teach-

ings of the fathers, to adopt the British theory of government in this country.

Nor is any injustice intended toward Alexander Hamilton. To none, after the close of the Revolutionary war, was the country more indebted for the adoption of the Federal Constitution than to that illustrious statesman: his opinions were honest views, ably maintained; but when overruled, valiantly and patriotically he labored for the establishment of the Constitution and the success of the Government it brought into life.

Surely, if the dead could reappear and speak, no voice would sound clearer or stronger for the maintenance unimpaired of our systems of government than would Alexander Hamilton's.

What have they not accomplished! what wonders have they wrought! In one century they have peopled a continent, and given to the people of our own and of all lands a home, freedom, prosperity, equal rights and privileges — founded States in wildernesses, which have become more powerful and prosperous than many empires, and in its central government formed a power second to none in the world, — soon to be the first among the governments of the earth. Her people renowned already in education, in the arts and sciences, in mechanics and manufacturing, and in agriculture, while her commerce reaches every sea and every land.

But if these things have been accomplished through our systems of government at home, what beneficent influences have they not also exerted in other lands. The leaven of our example is working in the old world.

What! shall we go back to adopt theories being abandoned throughout the world? See enlightened France a republic, as yet, it is true, only partially disenthralled. Paris is still France; but the centralism of the present system in that country will cure itself through our example. And Great Britain, too, our sturdy old mother; at the next turn of her wheel, down comes the law of entail, over go the titles of nobility through accident of birth, up will arise the young giant of popular sovereignty of the people; and not yet, but in time, will come the Republic of Great Britain.

Fresh from our people, let us choose our rulers. No diadem or crown can equal the laurel worn by a chosen servant of a grateful and free people. Nor should the sceptre fall regretfully from the grasp of those once in power; and let no sacreligious hand dare reach for the Presidential chair more terms than Washington and Jefferson and Jackson filled it. Remember, Cincinnatus and Cromwell, as well as the immortal Washington, refused a crown, and the act renders their names more illustrious than would have its acceptance. No service can render any American worthy greater honor than received by Washington; and if personal ambition, or a dream of a change in our systems of government, animates the bosom of any man, or points the policy of any party or set of men, let him or them beware, for laurels won may be easily lost, and the head which wore them in honor be laid low in dishonor.

"My country! if a wretch should e'er arise,
Out of thy countless sons, who would curtail
Thy freedom, dim thy glory, while he lives

May all earth's people curse him — for of all
Hast thou secured the blessing, — and if one
Exist who would not arm for liberty,
Be he too cursed living, and when dead
Let him be buried downwards, with his face
Looking to Hell."

The State of New York proposed as one of her amendments to the Federal Constitution, "That no person shall be eligible to the office of President of the United States a third term." No person, not even Washington himself.

DECLARATIONS AGAINST A THIRD TERM BY REPUBLICAN CONVENTIONS.

"*New York Convention, September* 8, 1875.

"Eighth — Recognizing as conclusive the President's public declaration that he is not a candidate for renomination, and with the sincerest gratitude for his patriotic services, we declare our unalterable opposition to the election of any President for a third term."

"*Pennsylvania Convention, May* 26, 1875.

"That we declare a firm, unqualified adherence to the unwritten laws of the Republic, which wisely, and under the sanction of the most venerable of examples, limit the Presidential service of any citizen to two terms; and we, the Republicans of Pennsylvania, in recognition of the law, are unalterably opposed to the election to the Presidency of any person for a third term."

"*Massachusetts State Convention*, 1875.

"That sound reason, as well as the wise and unbroken usage of the Republic, illustrated by the example of Washington, requires that the tenure of the chief magistrate of the United States shall not exceed a second term."

"*Ohio Republican Convention*, 1875.

"The observance of Washington's example, in retiring at the close of a second Presidential term, will be in the future, as it has been in the past, regarded as a fundamental rule in the unwritten law of the Republic."

"*Wisconsin Republican Convention*, 1875.

"That we accept with approbation the letter of President Grant, discouraging the continuance in office of any magistrate of the nation for a longer period than two terms." *

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* Ex-President Grant again appears in the political arena as a candidate for reëlection to the Presidency. He has said he was called from a life-position he liked, and one "it would have been most agreeable to me to have retained until such time as Congress might have consented to my retirement, with the rank and a portion of the emoluments which I so much needed, to a home where the balance of my days might be spent in peace and in the enjoyment of domestic quiet, relieved from the cares which have oppressed me so constantly now for fourteen years."

He, in that position, had so arranged that the political party which first nominated him, did so, not because he was its choice, but because they feared if they did not, the other party would do so. Through the control of many of the States by the Federal army, excluding their people from any voice in the electoral colleges, he was twice elected through the forms of the Constitution.

Instead, however, of retiring to "the enjoyment of domestic quiet" he claimed so much to covet, he commenced an electioneering tour around the world, and has succeeded in outdoing Barnum in presenting "the greatest show on earth," which is still travelling on exhibition; but whether it will be a paying investment to the stockholders, depends on Grant's reëlection to the Presidency.

See how disingenuously he "puts away the crown." He does not want the third nomination "more than he did the first." Probably not; yet he attempts to show how the dear people "cannot be restricted" from choosing him any number of terms, and it is fair to believe he will not want the fourth term more than he did the third, should he and his supporters secure them.

In a letter he said: "Now for the third term. I do not want it any more than I did the first," and said that until an amendment to the Constitution was adopted on the subject, "the people cannot be restricted in their choice by resolution further than they are now restricted as to age, nativity, &c." . . . "I am not, nor have I ever been, a candidate for renomination. I would not accept a nomination if it were tendered, unless it should come under such circumstances as to make it an imperative duty,—circumstances not likely to arise."

As no such "circumstances" have arisen, the "imperative duty" will not arise until he secures a majority of his party delegates to the nominating convention.

His announcement "let us have peace," was followed by his keeping up the war during his two terms.

His order, "Let no guilty man escape," was followed by the pardon of

BUT WHAT OF THE NEGRO QUESTION?

There is no such question. The colored men of the United States are FREEMEN; they are no longer wards of any man or any government. Free, equal in political rights, armed with the ballot, they stand the peers of every other citizen of any State or of all the States. They do not demand, nor should they receive class legislation that does not apply to every citizen of every State. Appropriate legislation has given them the ballot in every State, as the adoption of amendments to the State constitutions by the States in which slavery existed abolished that system. In those States their numbers and power as voters is a sure guarantee

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the convicted criminals and the discharge of the attorneys who convicted them.

He was for "civil service reform," but against its enforcement.

In his inaugural in 1869, he said: "Fluctuation in the paper value of the measure of all values (gold), is detrimental to the interests of trade." Yet he permitted the reissue of $40,000,000 of paper money, and the effect proved his words true.

He accepted an elegant residence at Long Branch from his collector of the Port of New York. Imagine a collector of New York or elsewhere making the offer of a residence to Washington, Jackson, or any other of our Presidents.

His War Department was prostituted to private gain and to partizan politics.

His Navy Department floated "helmless on black deluges of rascality."

The list of these and such inconsistences and peculiarities could be almost indefinitely extended, but they sufficiently exemplify the insincerity of his professions.

One of his eulogists admits that the cause of opposition to Grant was "that corruption flourished, and the civil service was debauched during his administration." "This statement cannot be disputed." And adds, "It was the era of latitude in morals as well as looseness in political and commercial dealings."

He might have added that when a government or administration is "debauched," its example is followed by its supporters, and "corruption" is the rule.

of their ability to protect themselves in the long run. All such things take time. Millions of men cannot be changed in a day or a year from slaves to sovereigns. Individual rights in our republics, "IF THEY CONTINUE REPUBLICS, like water in motion, will finally run clear." The moral power of the whole union should be exerted to stop all attempts at coercion, — "bulldozing," whether of the uncivilized form of the South, or of the civilized form of the North, should be stopped by the strong arms of the States and communities in which it exists — but not by the interference of the Federal Government; for, once admit that principle, and the interference of federal power would reach every interest, every local corporation, town, school district, and city, and our whole fabric of governments would be so changed in character as to lose all local rights and power, which would simply be the overthrow of the great principle upon which all our institutions are founded, to wit: the right and capacity of man to and for *self-government.*

It would simply be a return to the old-world idea that *men are made to be ruled* by a great central power, that they have no natural or political rights but such as the central power, whether emperor, king, or federal government, may see fit to grant; that the government must be paternal; that the people are its children to be nursed and brooded over, and that they are dependents on its favor and protection.

Oh, how much grander and loftier is the idea of the fathers that "governments are instituted by the consent of the governed." That "the people are the authors, not the incidents, of government." And that

the local, town, and State governments, over our personal, domestic, home affairs, are the ones to be most jealously guarded from invasion.

Let us guard them. Let us recur, as the great Washington said we could not do too often, to the principles upon which our governments are founded. Do not let us, as the republics of old have been, be shipwrecked on this rock of centralism which, as Washington said, is "the customary weapon by which free governments are destroyed;" nor let us be decoyed "by false lights on the shore" from the safe and well known channel which has so long and so gloriously led us to the harbor of safety; buoyed as it is by the beacons set up by our Revolutionary fathers; who laid the keel of a ship of State which is freighted with the destinies of millions yet unborn; its rudder their Constitution, and its flag that unfurled by Washington, and defended by Jackson, not with one star, but with room on its ample folds for all the stars, each sovereign in its sphere, until they represent the American continent and the adjacent islands.

NO, WE ARE NOT A NATION, BUT A FEDERAL UNION OF STATES.

"Ah! if our souls but poise and swing
Like the compass in its brazen ring,
Ever level, ever true
To the toil and the task we have to do,
We shall sail securely, and safely reach
The Fortunate Isles, on whose shining beach
The sights we see, and the sounds we hear,
Will be those of joy, and not of fear!"

PART III.

THE whole sovereignty in this Union, or in any one of its States, is in the people of the States.

Whatever of sovereignty they have for specific purposes placed in the written Constitutions of the States and the Federal Government they have only loaned; they can in a constitutional manner alter and change those governments if they so decide to do; yes, wipe them out and make other governmental arrangements, if they so choose to do; *but it must be done as prescribed by those Constitutions.*

Now, all power residing in and emanating from the people, it behoves them to see to it that their servants and agents chosen to administer the governments they have established, through long continuance in power, from motives of personal or party ambition, or from any other cause, do not so entrench themselves in power, and, through usurpations in one form or another, do not, step by step, encroach on the rights and privileges of the people themselves, until, when too late, they find their liberties taken from them, and, bound hand and foot, they fall from the position of sovereigns to that of slaves. "To the blind, all things are sudden."

In the early days of this republic our forefathers were intensely jealous of encroachments on their rights and liberties. For this reason it was with the utmost difficulty that the Federal Constitution was adopted; and in several of the States, some of the

most devoted and patriotic of the revolutionary period, opposed, and voted against its adoption. Even in Massachusetts, Hancock and Adams, the proscribed patriots, would only consent to its ratification with nine amendments, one of which, reserving to the States and the people all powers not expressly delegated to the Federal government, was undoubtedly regarded by this and other states, as it was by Jefferson, "its corner-stone." So important was their adoption then deemed, that Hancock was carried on a litter into the Convention in Massachusetts to present them, and even with them, it was with difficulty the Constitution was finally adopted.

These men had felt (as many of our adopted citizens have felt,) heavily upon their necks the usurping hand of despotism. Their laws and ordinances had been revoked, and their privileges encroached upon by the central government of Great Britain; her tools and agents, armed with her power, rode rough-shod over them, ruled and governed, and by force-bills and other arbitrary acts, were sustained and encouraged in the outrages they perpetrated. These things came upon them step by step, not at once; the coil of the serpent steals around its victim lightly and seductively at first, but, as its folds contract, struggle is vain, and a shapeless mass of crushed and bleeding humanity alone remains. So in our day, step by step, the serpent of despotism steals silently and sinuously around the fabric of our central government to embrace in its folds the liberties of the people, to so crush out the grand system established by the Fathers, till nothing is left but a shapeless ruin, upon which may

be erected a despotism more fearful and wicked than the world has yet seen, because its decrees may be enforced by the power of a continent, and the voice of the individual or of the State in which he resides, may be unheeded and lost in the roar of advancing anarchy.

The patriot, John Adams, wrote truthfully to his accomplished wife, that "*a constitution of government, once changed from freedom, can never be restored. Liberty once lost, is lost forever. When the people once surrender their share in the legislature, and their right of defending the* LIMITATIONS *upon the government, and of* RESISTING EVERY ENCROACHMENT UPON THEM, *they can never regain it.*"

For these reasons, and by the love we bear our country and its proud history, grander in its freedom and prosperity than all the world beside, let us cherish, each of us, now and forever, the great fundamental truths handed down to us by the revered Washington and his immortal compeers.

Nor is this idle declamation, uncalled for by the facts and tendency of events; on the contrary, for a long period, and especially during the past fifteen years, the encroachments of the Federal government on individual rights, has been alarmingly frequent; and to-day, with all our claim of freedom, the rights of the individual are much more sacredly guarded under the British government as against its own officials, than are our own citizens against the official acts of Federal officers. So far has Congress gone in this direction, that to-day, in the United States, the Supreme Court refuses jurisdiction over cases between

citizens and United States officials in many classes of cases, which in Great Britain are admitted, and the rights of citizens under them jealously guarded.

Any person who will examine this question, will find that some of the highest officers of the British government have been held and severely dealt with for encroachments on the rights of individual citizens. In one case a high officer of that government pleaded that he acted in his official capacity on precedents of over one hundred years, and without malice, yet the courts held that was no justification, and he was heavily fined and severely punished.

Instead of more power being given the Federal Government in this direction, measures should be adopted further to protect citizens from acts of Federal officials, and the courts of the Union be directed and empowered to take cognizance of such cases.

The bulwark against the advancing host of despotism is to be found alone in, First: the patriotism and intelligence of the people themselves; and, Second: in an independent, non-partizan Judiciary.

Yielding to the party passions of the hour, or to sentiments momentarily popular, against established law, is a crime. In civilized States, it should never be forgotten, especially by the Judiciary, that law is not only the basis of order, but that it is holy. In this country, law is the voice of the people, and while it remains unrepealed, should be regarded as the voice of God, which is law. States must have Law, and law implies right, and right must rest on principle.

Laws are but vapor unless founded on the precepts

of the Constitutions of the States, or of the Federal Government. The last analysis of law is before the Judiciary established to honestly and faithfully interpret it. Unjust and wicked laws falsely judicially decided, are instruments of tyrants to enforce their despotic wills. So long as we can have a Judiciary which will only act within their delegated authority strictly construed, — maintain the rights and powers of the people, and hold *themselves* and the State and Federal Governments to the true and strict limitations of their Constitutional powers, — so long liberty shall last in these States; for then no man or party will dare attempt to nullify its decrees; and the people, and their posterity, then would have both the power and the will to sustain them, and their names unstained would be honored in all lands, and through all time.

A striking illustration of the reservation of power, is found in the fact that the legislatures of three fourths of the States, can, through amendments to the Federal Constitution, alter, and change it, without the consent of the Federal Government; and another illustration, in this connection, of the jealousy of our forefathers of encroachments from the Executive and Judicial branches upon their reserved right to alter or amend the powers of their Federal Government, is found in the fact that neither of these branches are allowed a voice in altering or amending the fundamental law; to wit, — the Constitution. And for the reason, that acts done by any one Congress, even if approved by the Executive, and confirmed by Judicial

decision, may be undone and repealed by the next, or any future Congress; as encroachments on the rights and liberties of the people were most to be dreaded from the Executive and Judicial branches, all power of interference in framing, altering, or amending, was left in the hands of the States, with power in the Representatives of the people, simply *to propose for ratification* those amendments which experience, and the progress of events, render apparently necessary or desirable for the States to assent to, and adopt. And judicial decisions, or Executive acts, which tend to absorb more power in either of those branches, or which encroach upon the rights of the people, can be remedied by the action of Congress representing the people and the States.

Under these grand systems of government, in spite of the madness of the schemes of the present leaders of the Republican party, in spite of the dangers they threaten, and the principles so many times rejected which they advocate, LONG LIVE THE REPUBLIC OF THE UNITED STATES.

PART IV.

THE practical application of a few of the principles enunciated in this review of our systems of government may not be out of place.

Since the adoption of the Federal Constitution, or certainly since the controversey arose which grew out of the discussion of the Missouri Compromise of 1820, and which culminated in its repeal, no question has so agitated the Union as has the question of slavery. It was a local institution, confined to the States; so regarded by all parties, yet in an evil hour, by the passage of the Fugitive Slave Law of 1793, it was made a Federal issue. This first infraction of the Federal Constitution has led to others, and to the mournful history of our civil conflict. Passing down to the terrible era of reconstruction by a rump Congress, composed almost entirely of radical men of one party from only a portion of the States, see how through partisanship they overthrew the whole work of the war by one of their acts, and this action was alone remedied by the action of the States themselves.

When President Johnson issued his proclamation after the war, calling on the States in a constitutional manner to form State governments and elect senators and representatives to the Federal Congress, the States all did so, but the radical members from the northern States plotted to keep out the southern States, and claimed that each House being the judge of the qualification of its own members, that the clerk of the pre-

ceding Congress by law having the right to make the roll, or list of members, and that they (the saints) alone were to be put on that roll. This course was pursued in the 39th and 40th Congress, and the South was excluded.

The Executive was powerless to interfere, as was the Judiciary. The southern States had obeyed the proclamation of President Johnson. They had held sessions of their legislatures, passed laws, and amended their constitutions, abolishing slavery.

Yet this rump Congress overthrew these legislatures, and declared all acts done by them to be illegal and unconstitutional. How much authority they had for such action under the Constitution, their own leader, Hon. Thaddeus Stevens, in his letter to Colonel Shock shows.* Their whole work was unquestionably "usurpation;" and by it, had their work been legal, they would have left the black men of the South still in a state of servitude. But they will claim the slaves were emancipated by President Lincoln's proclamation in 1863. Were they? What, when almost all those States were not in the possession of the Federal government, but were recognized by it and by foreign nations as belligerents? If so, was not President Johnson's proclamation authoritative and constitutional when those States had sued for peace, and were ready and anxious to return to their duties under the Constitution? President Lincoln wrote to Horace Greeley that his proclamation would have as much legal effect as "the Pope's bull against the comet;" and it had.

* See page 19, Part I.

Happily the States, by amending their constitutions, abolished slavery, *in spite of* this action of these rump Congresses, as was decided by Chief Justice Chase in the Elizabeth Turner case, on the 15th of October, 1867, Secretary Seward having also recognized their action as binding in the adoption of the Fifteenth Amendment to the Constitution of the United States. These matters of history are referred to, to bring to mind the days when a usurping Congress trod the Executive branch, and the action of States under its feet, and the *Legislative* assumed all the powers of the government.

And now let us turn to the action of the same party, led by some of the same men, in a State, basing that action on exactly opposite claims they formerly in Congress set up, to accomplish the usurpation of a State government, where the *Judiciary* descended to become the chief instrument to accomplish the defeat of the Constitutional methods and parliamentary practice of the whole Union, in its State and Federal systems.

As the usurpation in the State of Maine was commented on in the BOSTON POST of the 19th of January, 1880, in a communication, it is now republished as applying to illustrate judicial encroachments on the written limitations and explicit provisions of the Constitution — *the law of the people.*

"THE MAINE DECISION.

TO THE EDITOR OF THE BOSTON POST: — Every student of our political history must admit, if he admits the truth, that all the evils and trials we, as a people, have been obliged to suffer from, have grown out of infractions of the Constitution, or systems of govern-

ment adopted by our predecessors, under which we live. The rapid progress toward anarchy, and the annihilation of our beneficent systems of government the past few years, does, and well may, excite the most profound sentiments of alarm in the minds of all patriotic believers in Republican government. Nothing is now permitted to stand in the way of partisan usurpation. Oaths are breath; constitutional obligations are sneered at, and the limitations of constitutional power overridden. That conservative balance-wheel, the judiciary, descend to the slough of partisan politics, and judges become the instruments and tools of a corrupt political party. The question is no longer even asked, 'What is the will of the people?' But the question discussed is, 'How shall our ring or party keep or secure power?' How! No matter how, so long as power is secured by this or that party. Already a large portion of that party which holds power in the Executive branch of the Federal Government through the most gigantic fraud the world has ever seen, proposes to again place in power a man, not because of his great intellectual capacity, not because he in anything has proved himself a statesman, but because he is a good fighter, because he has combative, pugilistic tastes, one who will not hesitate to override forms, law, and constitutional provisions, as he has before done, and, no matter at what cost, secure power for his supporters.

Is it not time for all who have interests at stake (to put in no higher plea) to throw aside partisanship, and survey the political field from heights which overlook the plane of strife and intrigue, and see where such steps are leading the people of this now prosperous country?

Already we hear prominent men proclaiming our systems of government a failure, and in the clubs and the press suggestions of a change. Such people forget, or do not know, that the evils they lament are upon us because those in authority have not or do not follow the safe and straight paths laid out by the fathers in our constitutions of government.

To-day, in a neighboring State, anarchy, if not absolute civil war, has taken the place of the peaceful solution of the questions at issue, through the mistake of the Executive, and the prostitution of the Judicial branches of its government.

Let us examine this matter of government in the State of Maine.

First. — No one will deny that Governor Garcelon and his council were the legally constituted executive branch of that government. The Constitution says that all executive power is vested in the executive branch; and it makes it a part of its duty to examine the returns of the several towns and districts, and issue to those who appear to be elected a certificate of their election to the Senate or House of Representatives. The governor and his council take a solemn oath to perform this duty, and all their duties, in accordance with the provisions of the Constitution, which can only mean according to their honest interpretation of its provisions, as they understand it, — as both General Jackson and Mr. Sumner said was their duty to do. Having examined these returns, it was their duty to issue a certificate to those men they decide, on their oaths, to have been duly elected. In this matter there their duty ended.

Second. — Those persons holding these certificates of election, on the day fixed by the Constitution, come together in their respective chambers in the capitol, and form the legislative branch of the government, in which branch are vested all legislative powers. They, too, are bound by solemn oath to maintain the Constitution; and one provision is that each branch of that legislature is the sole judge of the election and qualification of its own members. The senate cannot say who are legal members of the house, nor can the house decide who are members of the senate; no one can decide that question for them. All persons claiming seats in these bodies can appear, put in their claims, and be heard; and the fact that any one has the certificate of the executive branch goes for nothing if a majority of a quorum of either branch decide he is not entitled to his seat therein. There is no appeal from this decision until, at an ensuing election, the parties can again appeal to the people; and, there being a quorum present in each branch, this body forms a legal legislature, and of right can and should perform all legislative functions.

Third. — While the representatives and senators of the people have the sole power to make and pass laws, and the executive to enforce them, the judicial powers are solely vested in the judiciary, whose duty it is to see that they are constitutional, to interpret them, and to legally settle disputes arising under them. This branch,

equally independent and separate as are the two other branches of the government, is, like them, not to be interfered with in those things over which it has, under the Constitution, exclusive control. Any attempt of either of these executive, legislative, or judicial branches to interfere with and control the other is usurpation, and leads to anarchy. There are two kinds of judicial decisions, — one with, and another without authority. One is law, the other mere opinion; one is binding, the other simply advice, judgment. The more the judiciary confine themselves to judicial decisions, and the fewer extra judicial decisions they make, especially in times of public excitement and turmoil, the greater will be the respect for law, and for the men who themselves abide by the Constitution. No viler names exist in English history than Scroggs and Jeffreys, who prostituted the judicial ermine to serve as servants of corruption.

Now in Maine, after the governor and council had examined the returns and issued the certificates to those they believe elected to the legislature, ex-Governor Morrill writes, and asks the governor to propound certain questions to the supreme judicial court relative to the returns and the election.

Here two mistakes were made. First, Governor Garcelon, not with the council, acceded to Mr. Morrill's request; and second, the court admitted the subject-matter, and gave its opinion upon the questions. The court could not issue certificates of election, nor was it proper for the executive to call upon the judiciary to review questions which the executive alone had the power to decide, and which he and his council had previously decided. And it is only equitable to assume that, in the decision, one branch was just as honest as the other; both went beyond their duty in the matter.

Next, I think no one will dispute that the legislature met at the time and place designated by the Constitution. A scene of confusion ensued on its organization, and a portion of each branch left the halls, but a quorum remained in each. It will be said, 'Yes, a quorum of those holding the executive certificate.' Exactly. Who but each of those branches has the right to decide on the validity of those certificates? Each branch of the legislature alone has that right under the Constitution. Each alone can judge as to the qualification of its own members. Such cases arise, and are met and

decided, in all State legislatures, and in every Congress. When the member who holds the certificate and has taken his seat is rejected, what remedy has he? He cannot go to the courts and get a writ to eject his opponent, because the courts would tell him they have no jurisdiction. He must wait another year.

But in Maine they have inaugurated a new method. The minority of those holding certificates of election meet; they admit those they claim should have had certificates, but who have none, and set up as a legislature. They then propound a long series of questions to the supreme court. Now supposing, when Hon. Mr. Field was superseded by Hon. Mr. Dean in the last Congress, he had gotten up a long series of questions, and presented them to the United States Supreme Court, — and if sixty can do it, one can, — or supposing the senators and representatives elected from the Southern States, who were shut out by the 'rump Congress' in Thad. Stevens' time, had met and done so, the Supreme Court would have at once denied jurisdiction over the questions, and declined to interfere; and that is exactly what the Maine court should have done. They have not done it. By departure from fundamental principles, they have contributed to bring about a state of affairs which should be deplored by all good citizens of whatever party. Two State governments are to be set up, — one created through the forms of the Constitution, another by the Supreme Court; one representing one party, the other, two other parties; one representing a majority of the voters, another representing a minority of the voters; one likely to appeal to the President for Federal recognition, the other to Congress; and thus we see, step by step, how, through these infractions of the Constitution, and stepping outside the strict interpretations of our constitutions and systems of government, we go forward into civil discord and anarchy.

The need of our time is fearless statesmanship, honest, patriotic men, who believe in our republican forms of government, and who will hold each department to the line of its own constitutional duties. E. H.

JAMAICA PLAIN, January 17, 1880."

The judiciary of Maine have, in these extra-judicial opinions, furnished the basis for the unconstitutional action which enforced them. In the words of "JUNIUS," "These proceedings, odious and contemptible as they are, in effect are no less injudicious. A wise and generous people are roused by every appearance of oppressive, unconstitutional measures, whether these measures are supported openly by the power of the Government, or masked under the forms of a court of justice. Prudence and self-preservation will oblige the most moderate dispositions to make common cause, even with a man" (or a State) "whose conduct they censure, if they see him persecuted in a way which the real spirit of the laws will not justify. The facts on which these remarks are founded are too notorious to require an application.

"In reading the history of a free people whose rights have been invaded, we are interested in their cause. Our own feelings tell us how long they ought to have submitted, and at what moment it would have been treachery to themselves not to have resisted. How much warmer will be our resentment if experience should bring the fatal example to ourselves."

Lord Chatham said: "I have an ambition; it is the ambition of delivering to my posterity those rights of freedom which I have inherited from my ancestors."

We, in these American States, each of us should feel the great responsibility resting on us, in having handed down to us so glorious a heritage as is our

systems of government. We should guard and cherish them, and ever regard those men as public enemies, to whatever party they may belong, who, for temporary partisan purposes, would undermine or overturn our political structure, or usurp or encroach upon the reserved rights of the people.

We are, as political societies, what our fathers made us under the systems they adopted; and, under the federal system, we are what the constitution it was formed to establish says we are, — to wit, "a more perfect union." We are united States; we trust forever to remain united.

Whatever may be the ambitious designs of those men constantly advocating "a strong government," whose mistaken idea of a strong government is in a centralized despotism, the forces of nature are all working against them. There is nothing so strong in human government as the will of a free people. No man or party in these states can overthrow and subvert liberty. In the eloquent words of Dr. Chapin of New York, —

"Unless I have read history backward, — unless Magna Charta is a mistake, and the Bill of Rights a sham, and the Declaration of Independence a contumacious falsehood, — unless the sages, and heroes, and martyrs, who have fought and bled were imposters, — unless the sublimest transactions in modern history, on Tower Hill, in the Parliaments of London, on the sea-tossed Mayflower, — unless these are all deceitful, there is no cause so linked with religion as the cause of Democratic liberty." . . . .

"What are these new forces, steam and electricity,

but powers that are levelling all factitious distinctions, and forcing the world on to a noble destiny? Have they not already propelled the nineteenth century a thousand years ahead? What are they but the servitors of the People, and not of a class? Does not the poor man of to-day ride in a car dragged by forces such as never waited on kings, or drove the wheels of triumphal chariots? Does he not yoke the lightning, and touch the magnetic nerves of the world? The steam-engine is a democrat. It is the popular heart that throbs in its iron pulses. And the Magnetic Telegraph writes upon the walls of despotism, *Mene, mene, tekel upharsin!* There is a process going on in the moral and political world, — like that in the physical world, — crumbling old Saurian forms of past ages, and breaking up old land-marks; and this moral process is working under Neapolitan dungeons and Austrian thrones; and it will tumble over your Metterniches and Nicholases, and convert your Josephs into fossils. I repeat it, not only are all the moral principles of the age, but all the physical principles of nature as developed by man, at work in behalf of FREEDOM."

"There is a land of every land the pride,
Beloved of Heaven o'er all the world beside;
Where brighter suns dispense serener light,
And milder moons emparadise the night; —
There is a spot of earth supremely blest,

A dearer, sweeter spot than all the rest,
Where man, creation's tyrant, casts aside
His sword and sceptre pageantry and pride,
While in his softer looks benignly blend
The sire, the son, the husband, brother, friend: —
'Where shall that *land*, that *spot of earth* be found?'
Art thou a man? — a patriot? — look around!
O, thou shalt find, howe'er thy footsteps roam,
That land *thy* country, and that spot *thy* home!"

JAMES MONTGOMERY.